IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1159 OF 2006
IN
APPEAL FROM ORDER NO.841 OF 2006

Neelu Yatish Shah ...Applicant

vs.

Prakash Chawla and ors. ...Respondents

Mr.S.B.Deshmukh for the Applicant
Mr.Sanjay Prabhu for Respondent No.1
Mr.S.Mannadiar for Respondent No.2
Mr.N.D.Beboo for Respondent No.3

CORAM: A.S.OKA,J.
DATE : MAY 3,2007.

P.C.:

1. Heard learned Counsel for the parties. The prayer in this Application is for restraining the Respondents from entering into an agreement of sale of any Unit or flat or any structure on the eastern and western side from the ground to third floor contrary to the agreement entered into with the Applicant-Plaintiff.

2. The Applicant-Plaintiff is the Appellant in the Appeal from Order. By the order impugned in the Appeal, a Notice of Motion taken out by the Appellant-Plaintiff has been dismissed. The Appeal has been admitted for final hearing.

3. After having heard the learned Counsel for the parties, I find that no case is made out for grant of interim relief as prayed. Prima facie, it appears to me that there is no contractual relationship between the Applicant and the second

Respondent. The second Respondent is the owner of the property. The alleged agreement has been executed in favour of the Applicant by the first Respondent. The learned Counsel for the first Respondent states that the first Respondent will deposit in this Court a sum of Rs.18,12,570/- which is the amount allegedly received by the first Respondent from the Applicant together with interest thereon at the rate of 9% p.a. He states that the deposit will be made within a period of two weeks from today. The Registry will accept the deposit of the amount in the summer vacation.

4. Considering the fact that the first Respondent has offered to deposit the aforesaid amount and as the second Respondent has already appointed another developer, the relief of injunction cannot be granted.

5. It is obvious that all further actions of the Respondents are subject to further order which may be passed in the pending Appeal.

6. Subject to what is stated above, application is rejected. The amount deposited by the first Respondent will be invested by the Registry in any nationalised bank in fixed deposit. Initially, the fixed deposit shall be made for two years and thereafter, the same shall be renewed from year to year till the final disposal of the Appeal. Hearing of the Appeal is expedited.

JUDGE